

# House File 257 - Introduced

HOUSE FILE \_\_\_\_\_  
BY SCHUELLER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the issuance of a protective order on behalf  
2 of a person who is the alleged victim of a sexual offense and  
3 providing a penalty.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 1491HH 82  
6 rh/es/88

PAG LIN

1 1 Section 1. Section 664A.1, subsection 2, Code 2007, is  
1 2 amended to read as follows:  
1 3 2. "Protective order" means a protective order issued  
1 4 pursuant to chapter 232, a court order or court-approved  
1 5 consent agreement entered pursuant to chapter 236, including a  
1 6 valid foreign protective order under section 236.19,  
1 7 subsection 3, a temporary or permanent protective order or  
1 8 order to vacate the homestead under chapter 598, ~~and~~ an order  
1 9 that establishes conditions of release or is a protective  
1 10 order or sentencing order in a criminal prosecution arising  
1 11 from a domestic abuse assault under section 708.2A, and a  
1 12 protective order issued for an alleged victim of a sexual  
1 13 offense pursuant to section 709.20.

1 14 Sec. 2. Section 664A.2, subsection 2, Code 2007, is  
1 15 amended to read as follows:

1 16 2. A protective order issued in a civil proceeding shall  
1 17 be issued pursuant to chapter 232, 236, or 598, or section  
1 18 709.20. Punishment for a violation of a protective order  
1 19 shall be imposed pursuant to section 664A.7.

1 20 Sec. 3. Section 664A.5, Code 2007, is amended to read as  
1 21 follows:

1 22 664A.5 MODIFICATION == ENTRY OF PERMANENT NO=CONTACT  
1 23 ORDER.

1 24 If a defendant is convicted of, receives a deferred  
1 25 judgment for, or pleads guilty to a public offense referred to  
1 26 in section 664A.2, subsection 1, or is held in contempt for a  
1 27 violation of a no-contact order issued under section 664A.3 or  
1 28 for a violation of a protective order issued pursuant to  
1 29 chapter 232, 236, or 598, or section 709.20, the court shall  
1 30 either terminate or modify the temporary no-contact order  
1 31 issued by the magistrate. The court may continue the  
1 32 no-contact order in effect for a period of five years from the  
1 33 date the judgment is entered or the deferred judgment is  
1 34 granted, regardless of whether the defendant is placed on  
1 35 probation.

2 1 Sec. 4. Section 664A.7, subsections 1 and 4, Code 2007,  
2 2 are amended to read as follows:

2 3 1. Violation of a no-contact order issued under this  
2 4 chapter or a protective order issued pursuant to chapter 232,  
2 5 236, or 598, or section 709.20, including a modified  
2 6 no-contact order, is punishable by summary contempt  
2 7 proceedings.

2 8 4. Violation of a no-contact order entered for the offense  
2 9 or alleged offense of domestic abuse assault in violation of  
2 10 section 708.2A or a violation of a protective order issued  
2 11 pursuant to chapter 232, 236, or 598, or section 709.20  
2 12 constitutes a public offense and is punishable as a simple  
2 13 misdemeanor. Alternatively, the court may hold a person in  
2 14 contempt of court for such a violation, as provided in  
2 15 subsection 3.

2 16 Sec. 5. NEW SECTION. 709.20 SEXUAL OFFENSES ==  
2 17 PROTECTIVE ORDER.

2 18 1. A person who is the alleged victim of a sexual offense  
2 19 as defined in section 709.2, 709.3, 709.4, 709.8, 709.9,

2 20 709.11, 709.14, 709.15, or 709.16, including a parent or  
2 21 guardian of such a person who is a minor, may seek relief by  
2 22 filing a petition in the district court for a protective  
2 23 order. Venue shall lie where either party resides. The  
2 24 petition must allege facts sufficient to show the following:

2 25 a. The name of the alleged victim of a sexual offense  
2 26 enumerated in this subsection.

2 27 b. The name of the respondent.

2 28 c. That the respondent has committed a sexual offense  
2 29 enumerated in this subsection.

2 30 The petition shall be accompanied by an affidavit prepared  
2 31 under oath stating the specific facts and circumstances from  
2 32 which relief is sought. The court shall provide standard  
2 33 forms and clerical assistance to help with the writing and  
2 34 filing of a petition under this section.

2 35 2. The filing fees for a protective order under this  
3 1 section shall be waived for the petitioner if the petition  
3 2 alleges acts that would constitute a sexual offense pursuant  
3 3 to subsection 1. The clerk of the district court, the sheriff  
3 4 of any county in this state, and other law enforcement and  
3 5 corrections officers shall perform their duties relating to  
3 6 service of process without charge to the petitioner. The  
3 7 court may direct a respondent to pay to the clerk of the  
3 8 district court the fees for the filing of the petition and  
3 9 reasonable costs of service of process if the court determines  
3 10 the respondent has the ability to pay the petitioner's fees  
3 11 and costs.

3 12 3. a. The court may issue a temporary protective order  
3 13 ordering the respondent to cease or avoid the commission of a  
3 14 sexual offense against the alleged victim or to have no  
3 15 contact with the alleged victim if the petitioner files a  
3 16 petition in compliance with subsection 1 and if the court  
3 17 finds reasonable grounds to believe that the respondent has  
3 18 committed a sexual offense against the alleged victim.

3 19 b. Notice need not be given to the respondent before the  
3 20 court issues a temporary protective order under this  
3 21 subsection. A copy of the temporary protective order shall be  
3 22 served on the respondent along with the petition and an order  
3 23 for hearing.

3 24 c. The temporary protective order shall be in effect until  
3 25 a hearing is held on the issuance of the protective order  
3 26 pursuant to subsection 4. The court shall hold a hearing on  
3 27 the issuance of a protective order if the petitioner requests  
3 28 a hearing. If a temporary protective order has been issued  
3 29 and the respondent requests a hearing, the hearing shall be  
3 30 scheduled by the court upon receipt of the respondent's  
3 31 request. A request for a hearing must be made within  
3 32 forty-five days after the temporary protective order has been  
3 33 issued.

3 34 4. The court may grant a protective order ordering the  
3 35 respondent to cease or avoid the commission of a sexual  
4 1 offense against the alleged victim or to have no contact with  
4 2 the alleged victim if all of the following occur:

4 3 a. The petitioner has filed a petition.

4 4 b. The sheriff has served the respondent with a copy of  
4 5 the temporary protective order obtained pursuant to subsection  
4 6 3 and a notice of the right to request a hearing, or service  
4 7 has been made by publication.

4 8 c. The court finds at the hearing that there are  
4 9 reasonable grounds to believe that the respondent has  
4 10 committed a sexual offense against the alleged victim.

4 11 Relief granted by the protective order shall be for a  
4 12 period not to exceed two years.

4 13 5. Violation of a protective order issued under this  
4 14 section constitutes contempt of court and may be punished by  
4 15 contempt proceedings as provided in section 644A.7.

4 16 Sec. 6. Section 709.22, subsection 3, Code 2007, is  
4 17 amended to read as follows:

4 18 3. Providing a victim with immediate and adequate notice  
4 19 of the victim's rights.

4 20 a. The notice shall consist of handing the victim a copy  
4 21 of the following statement written in English and Spanish,  
4 22 asking the victim to read the statement, and asking whether  
4 23 the victim understands the rights:

4 24 (1) "You have the right to ask the court for help with any  
4 25 of the following on a temporary basis:

4 26 a- (a) Keeping your attacker away from you, your home, and  
4 27 your place of work.

4 28 b- (b) The right to stay at your home without interference  
4 29 from your attacker.

4 30 c- (c) The right to seek a no-contact order under section

4 31 664A.3 or 915.22, if your attacker is arrested for sexual  
4 32 assault, or to seek a protective order under section 709.20.

4 33 (2) You have the right to register as a victim with the  
4 34 county attorney under section 915.12.

4 35 (3) You have the right to file a complaint for threats,  
5 1 assaults, or other related crimes.

5 2 (4) You have the right to seek restitution against your  
5 3 attacker for harm to you or your property.

5 4 (5) You have the right to apply for victim compensation.

5 5 (6) You have the right to contact the county attorney or  
5 6 local law enforcement to determine the status of your case.

5 7 (7) If you are in need of medical treatment, you have the  
5 8 right to request that the officer present assist you in  
5 9 obtaining transportation to the nearest hospital or otherwise  
5 10 assist you.

5 11 (8) You have the right to a sexual assault examination  
5 12 performed at state expense.

5 13 (9) If you believe that police protection is needed for  
5 14 your physical safety, you have the right to request that the  
5 15 officer present remain at the scene until you and other  
5 16 affected parties can leave or until safety is otherwise  
5 17 ensured."

5 18 b. The notice shall also contain the telephone numbers of  
5 19 shelters, support groups, and crisis lines operating in the  
5 20 area.

#### 5 21 EXPLANATION

5 22 This bill relates to the issuance of a protective order on  
5 23 behalf of a person who is the alleged victim of a sexual  
5 24 offense.

5 25 The bill provides that a person, including a parent or  
5 26 guardian of a minor, who is the victim of a crime of first,  
5 27 second, or third degree sexual abuse, a victim of a crime of  
5 28 lascivious acts with a child, a victim of indecent exposure, a  
5 29 victim of a crime of assault with intent to commit sexual  
5 30 abuse, a victim of a crime of indecent contact with a child, a  
5 31 victim of a crime of lascivious contact with a minor, a victim  
5 32 of a crime of sexual exploitation by a counselor or therapist,  
5 33 or a victim of a crime of sexual misconduct with offenders and  
5 34 juveniles, may seek relief by filing a petition in the  
5 35 district court, accompanied by an affidavit prepared under  
6 1 oath stating the specific facts and circumstances from which  
6 2 relief is sought. The filing fees for a protective order  
6 3 under this section shall be waived for the petitioner.

6 4 The bill provides that a court may issue a temporary  
6 5 protective order ordering the respondent to cease or avoid the  
6 6 commission of a sexual offense against the victim or to have  
6 7 no contact with the victim if the petitioner files a petition  
6 8 in compliance with provisions of the bill and if the court  
6 9 finds reasonable grounds to believe that the respondent has  
6 10 committed a sexual offense. Upon hearing, the court may grant  
6 11 a permanent protective order ordering the respondent to cease  
6 12 or avoid the commission of a sexual offense against the victim  
6 13 or to have no contact with the victim if the petitioner has  
6 14 filed a petition, proper notice of service has occurred,  
6 15 including a copy of the temporary protective order, and the  
6 16 court finds at the hearing that there are reasonable grounds  
6 17 to believe that the respondent has committed a sexual offense  
6 18 against the victim. Violation of a protective order issued  
6 19 under the bill constitutes contempt of court and may be  
6 20 punished by contempt proceedings. A person held in contempt  
6 21 of court is subject to a fine and imprisonment in a county  
6 22 jail.

6 23 The bill also provides that if a peace officer has reason  
6 24 to believe a sexual offense has occurred, the officer shall  
6 25 include information relating to the victim's right to seek a  
6 26 temporary order pursuant to the bill.

6 27 The bill makes conforming changes to Code chapter 664A that  
6 28 provides for the enforcement of protective orders.

6 29 LSB 1491HH 82

6 30 rh:rj/es/88.1